IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

FINJAN SOFTWARE, LTD., an Israel corporation,)
Plaintiff,) Civil Action No. 06-369 GMS
v.)
SECURE COMPUTING CORPORATION, a Delaware corporation, CYBERGUARD, CORPORATION, a Delaware corporation, WEBWASHER AG, a German corporation and DOES 1 THROUGH 100,))))
Defendants	,

JOINT SPECIAL VERDICT FORM

Finjan Software Ltd.'s ("Finjan Software") Patent Infringement Claims Against Secure Computing Corporation, Cyberguard Corporation, Webwasher AG A. ("Secure Computing")

Literal Infringement

1.	that Secure Comp No. 6,092,194? A	uting literally infringe nswer this question re o." A "Yes" is a findi	oven by a preponderards any of the asserted control of the asserted control of the same of the control of the c	laims of U.S. Patent of the '194 patent
	YES	N	O	
	If you answered "	NO," please proceed t	to Question No. 2.	
	If you answered "	YES," please mark the	e claims you found to	be infringed:
	Claim 1:	Claim 2:	Claim 3:	Claim 4:
	Claim 5:	Claim 6:	Claim 7:	Claim 8:
	Claim 9:	Claim 10:	Claim 11:	Claim 12:
	Claim 13:	Claim 14:	Claim 24:	Claim 25:
	Claim 26:	Claim 27:	Claim 28:	Claim 29:
	Claim 30:	Claim 32:	Claim 33:	Claim 34:
	Claim 35:	Claim 36:	Claim 65:	
2.	that Secure Comp No. 6,804,780? A	uting literally infringe nswer this question re o." A "Yes" is a find	oven by a preponderants any of the asserted carriers and infringement ing for Finjan. A "No	laims of U.S. Patent of the '780 patent
	YES	N	O	
	If you answered "	NO", please proceed t	to Question No. 3.	
	If you answered "	YES," please mark th	e claims you found to	be infringed:
	Claim 1:	Claim 2:	Claim 3:	Claim 4:
	Claim 5:	Claim 6:	Claim 9:	Claim 10:
	Claim 11:	Claim 12:	Claim 13:	Claim 14:
	Claim 18:			

No. 7,058,822? An with "Yes" or "No Secure Computing.	A "Yes" is a find	egarding infringemen ling for Finjan. A "N	nt of the '822 patent o" is a finding for
YES	N	O	
If you answered "N	NO," please proceed	to Question No. 4.	
If you answered "Y	/ES," please mark th	ne claims you found to	be infringed:
Claim 4:	Claim 6:	Claim 8:	Claim 12:
Claim 13:			

Skip Question 4 if you answered "YES" to Question 1 and found literal infringement of all asserted claims of U.S. Patent No. 6,092,194.

4. If you did not find that Secure Computing literally infringes some or all of the claims of U.S. Patent No. 6,092,194 under Question 1, do you find that Finjan Software has proven by a preponderance of the evidence that Secure Computing infringes any of those claims under the doctrine of equivalents? Answer this question regarding infringement of the '194 patent under the doctrine of equivalents with "Yes" or "No." A "Yes" is a finding for Finjan. A "No" is a finding for Secure Computing.²

finding for Secure Computing.2					
YES	NO_				
If you answered "NO", please proceed to Question No. 5.					
If you answered "YE the doctrine of equiv		laims you found to be i	nfringed under		
Claim 1:	Claim 2:	Claim 3:	Claim 4:		
Claim 5:	Claim 6:	Claim 7:	Claim 8:		
Claim 9:	Claim 10:	Claim 11:	Claim 12:		
Claim 13:	Claim 14:	Claim 24:	Claim 25:		
Claim 26:	Claim 27:	Claim 28:	Claim 29:		
Claim 30:	Claim 32:	Claim 33:	Claim 34:		
Claim 35:	Claim 36:	Claim 65:			

¹ Secure Computing objects to any claim or assertion by Finjan of alleged infringement by Secure Computing under the Doctrine of Equivalents. Finjan should be barred from asserted Doctrine of Equivalents based on prosecution history estoppel. Therefore, Questions 4, 5, and 6 should not be included in this Joint Verdict Form.

² Secure Computing objects to any claim or assertion by Finjan of alleged infringement by Secure Computing under the Doctrine of Equivalents. Finjan should be barred from asserted Doctrine of Equivalents based on prosecution history estoppel.

Skip Question 5 if you answered "YES" to Question 2 and found literal infringement of all asserted claims of U.S. Patent No. 6,804,780.

5.	If you did not find that Secure Computing literally infringes some or all of the claims of U.S. Patent No. 6,804,780 under Question 2, do you find that Finjan Software has proven by a preponderance of the evidence that Secure Computing infringes any of those claims under the doctrine of equivalents? Answer this question regarding infringement of the '780 patent under the doctrine of equivalents with "Yes" or "No." A "Yes" is a finding for Finjan. A "No" is a finding for Secure Computing. ³				
	YES	NO)		
	If you answered "NO)," please proceed to	Question No. 6.		
	If you answered "YE the doctrine of equiv		claims you found to	be infringed under	
	Claim 1:	Claim 2:	Claim 3:	Claim 4:	
	Claim 5:	Claim 6:	Claim 9:	Claim 10:	
	Claim 11:	Claim 12:	Claim 13:	Claim 14:	
	Claim 18:				
Skip (infrin	Question 6 if you ansigement of all asserted	wered "YES" to Q d claims of U.S. Pa	uestion 3 and found tent No. 7,058,822.	literal	
6.	If you did not find the claims of U.S. Patent Software has proven infringes any of thos question regarding it equivalents with "Ye finding for Secure Court of the claim of th	t No. 7,058,822 und by a preponderance e claims under the confringement of the 's s' or "No." A "Ye	er Question 3, do you of the evidence that loctrine of equivalent	u find that Finjan Secure Computing ts? Answer this	
	YES	NO)		
	If you answered "NO)," please proceed to	Question No. 7.		
***************************************		numeron.			

³ Secure Computing objects to any claim or assertion by Finjan of alleged infringement by Secure Computing under the Doctrine of Equivalents. Finjan should be barred from asserted Doctrine of Equivalents based on prosecution history estoppel.

⁴ Secure Computing objects to any claim or assertion by Finjan of alleged infringement by Secure Computing under the Doctrine of Equivalents. Finjan should be barred from asserted Doctrine of Equivalents based on prosecution history estoppel.

	If you answered "Y the doctrine of equ	(ES," please mark the ivalents:	claims you found to t	be infringed under
	Claim 4:	Claim 6:	Claim 8:	Claim 12:
	Claim 13:			
Will	ful Infringement ⁵			
7.	If your answer was Computing's infrin	"YES" for any of Que agement willful?	estions 1, 2, 3, 4, 5, or	r 6, was Secure
	YES	NO		

⁵ Secure Computing has moved for judgment as a matter of law to dismiss Finjan's willful infringement claims.

В.	Secure	Computing's	Patent	Invalidity	Claims	Against	Finjan	Software
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A 71112 THE TOTAL OF THE PARTY	m
Anticipation	,,,

8.	that any of the asset they are anticipate	ecure Computing has erted claims of U.S. Pad by prior art? Answey Yes" or "No." A "Yes for Finjan.	atent No. 6,092,194 a er this question regard	re invalid because ding validity of the
	YES	NO)	
	If you answered "I	NO," please proceed to	Question No. 9.	
	If you answered "'prior art:	YES," please mark the	claims you found to	be anticipated by
	Claim 1:	Claim 2:	Claim 3:	Claim 4:
	Claim 5:	Claim 6:	Claim 7:	Claim 8:
	Claim 9:	Claim 10:	Claim 11:	Claim 12:
	Claim 13:	Claim 14:	Claim 24:	Claim 25:
	Claim 26:	Claim 27:	Claim 28:	Claim 29:
	Claim 30:	Claim 32:	Claim 33:	Claim 34:
	Claim 35:	Claim 36:	Claim 65:	
9.	that any of the asso they are anticipate	ecure Computing has erted claims of U.S. Pad by prior art? <i>Answe Yes" or "No." A "Ye for Finjan</i> .	atent No. 6,804,780 at r this question regard	re invalid because ling validity of the
	YES	NO)	
	If you answered "I	NO," please proceed to	Question No. 10.	
	If you answered "'prior art:	YES," please mark the	claims you found to	be anticipated by
	Claim 1:	Claim 2:	Claim 3:	Claim 4:
	Claim 5:	Claim 6:	Claim 9:	Claim 10:
	Claim 11:	Claim 12:	Claim 13:	Claim 14:
	Claim 18:			

10.	that any of the a they are anticipa	t Secure Computing has serted claims of U.S. ated by prior art? Answar "Yes" or "No." A "Jug for Finjan.	Patent No. 7,058,822 wer this question regard	are invalid because rding validity of the
	YES		OV	
	If you answered	"NO," please proceed	I to Question No. 11.	
	If you answered prior art:	"YES," please mark t	he claims you found to	o be anticipated by
	Claim 4:	Claim 6:	Claim 8:	Claim 12:
	Claim 13:			
Obvid	ousness			
11.	that any of the a the prior art? A	sserted claims of U.S. nswer this question reg	Patent No. 6,092,194 garding validity of the	d convincing evidence are obvious in light of '194 patent with A "No" is a finding
	YES		NO	
	If you answered	"NO", please proceed	l to Question No. 12.	
	If you answered of the prior art:	"YES," please mark t	he claims you found to	o be obvious in light
	Claim 1:	Claim 2:	Claim 3:	Claim 4:
	Claim 5:	Claim 6:	Claim 7:	Claim 8:
	Claim 9:	Claim 10:	Claim 11:	Claim 12:
	Claim 13:	Claim 14:	Claim 24:	Claim 25:
	Claim 26:	Claim 27:	Claim 28:	Claim 29:
	Claim 30:	Claim 32:	Claim 33:	Claim 34:
	Claim 35:	Claim 36:	Claim 65:	

Do you find that Secure Computing has proven by clear and convincing evidence that any of the asserted claims of U.S. Patent No. 6,804,780 are obvious in light of the prior art? Answer this question regarding validity of the '780 patent with 12.

YES_	N	IO	
If you answer	red "NO", please proceed	to Question No. 13.	
If you answer	red "YES," please mark thrt:	ne claims you found to	be obvious in light
Claim 1:	Claim 2:	Claim 3:	Claim 4:
Claim 5:	Claim 6:	Claim 9:	Claim 10:
	G1.112.	Claim 13:	Claim 14:
Claim 11:	Claim 12:		
Claim 18:			-
Claim 18: Do you find t that any of the the prior art?		s proven by clear and Patent No. 7,058,822 arding validity of the	convincing evidence are obvious in light of '822 patent with
Claim 18: Do you find that any of the the prior art? "Yes" or "No for Finjan.	hat Secure Computing hat e asserted claims of U.S. Answer this question rego." A "Yes" is a finding f	s proven by clear and Patent No. 7,058,822 arding validity of the	convincing evidence are obvious in light of '822 patent with
Claim 18: Do you find that any of the the prior art? "Yes" or "No for Finjan. YES	hat Secure Computing hat e asserted claims of U.S. Answer this question rego." A "Yes" is a finding f	s proven by clear and Patent No. 7,058,822 s arding validity of the for Secure Computing.	convincing evidence are obvious in light of '822 patent with
Claim 18: Do you find that any of the prior art? "Yes" or "No for Finjan. YES If you answer	hat Secure Computing hat e asserted claims of U.S. Answer this question rego." A "Yes" is a finding for the computing of the computing the compu	s proven by clear and Patent No. 7,058,822 starding validity of the for Secure Computing. TO to Question No. 14.	convincing evidence are obvious in light of 1822 patent with A "No" is a finding

C. Damages for Finjan Software's Patent Infringement Claims Against Secure Computing

Web	washer Software
14.	If you have found that one or more of the asserted claims of U.S. Patent No. 6,092,194, U.S. Patent No. 6,804,780, and/or U.S. Patent No. 7,058,822 are valid and infringed by Secure Computing's Webwasher Software, then what is the reasonable royalty rate to which Finjan Software has proven by a preponderance of the evidence and the amount of sales of the Webwasher Software that the royalty rate should be applied to?
	<u> </u>
Web	washer Hardware Appliances
15.	If you have found that one or more of the asserted claims of U.S. Patent No. 6,092,194, U.S. Patent No. 6,804,780, and/or U.S. Patent No. 7,058,822 are valid and infringed by Secure Computing's Webwasher Hardware Appliances, then what is the reasonable royalty rate to which Finjan Software has proven by a preponderance of the evidence and the amount of sales of the Webwasher Hardware Appliances that the royalty rate should be applied to?
	<u>%</u> \$
Cybe	erguard TSP Hardware Appliances
16.	If you have found that one or more of the asserted claims of U.S. Patent No. 6 002 104 U.S. Patent No. 6 804 780, and/or U.S. Patent No. 7 058 822 are valid

16. If you have found that one or more of the asserted claims of U.S. Patent No. 6,092,194, U.S. Patent No. 6,804,780, and/or U.S. Patent No. 7,058,822 are valid and infringed by Secure Computing's Cyberguard TSP Hardware Appliances, then what is the reasonable royalty rate to which Finjan Software has proven by a preponderance of the evidence and the amount of sales of the Cyberguard TSP Hardware Appliances that the royalty rate should be applied to?

% \$	}

D.

Literal Infringement

17.	Do you find that Secure Computing has proven by a preponderance of the evidence that Finjan literally infringes any of the asserted claims of U.S. Patent No. 7,185,361? Answer this question regarding infringement of the '361 patent with "Yes" or "No." A "Yes" is a finding for Secure Computing. A "No" is a finding for Finjan.			
	YES	NO		
	If you answered "NO," please proceed to Question No. 17. If you answered "YES," please mark the claims you found to be infringed:			
	Claim 1:	Claim 2:	Claim 3:	Claim 4:
	Claim 5:	Claim 7:	Claim 8:	Claim 9:
	Claim 10:	Claim 11:	Claim 12:	Claim 14:
	Claim 15:			
18.	Do you find that Secure Computing has proven by a preponderance of the evidence that Finjan literally infringes Claim 37 of U.S. Patent No. 6,357,010? Answer this question regarding infringement of the '010 patent with "Yes" or "No." A "Yes" is a finding for Secure Computing. A "No" is a finding for Finjan.			
	YES	NO		

Inducing Infringement⁶

Skip Question 19 if you answered "NO" to Question 17 and did not find literal infringement of the '361 patent.

	19.	Do you find that Secure Computing has proven by a preponderance of the evidence that Finjan has induced infringement of any of the asserted claims of U.S. Patent No. 7,185,361? Answer this question regarding inducing infringement of the '361 patent with "Yes" or "No." A "Yes" is a finding for Secure Computing. A "No" is a finding for Finjan.			
		YES NO			
	If you answered "NO," please proceed to Question No. 19.				
		If you answered "YES," please mark the claims you found to be infringed by inducement:8			
		Claim 1:	Claim 2:	Claim 3:	Claim 4:
		Claim 5:	Claim 7:	Claim 8:	Claim 9:
		Claim 10:	Claim 11:	Claim 12:	Claim 14:
		YES		NO	
E.	Finjar	Finjan's Patent Invalidity Claims Against Secure Computing			
	Anticipation				
	20.	20. Do you find that Finjan has proven by clear and convincing evidence that any of the asserted claims of U.S. Patent No. 7,185,361 are invalid because they are anticipated by prior art? Answer this question regarding validity of the '361 patent with "Yes" or "No." A "Yes" is a finding for Finjan. A "No" is a finding for Secure Computing.			
		YES		NO	
infring indire	gement.	Secure Computing cann y a third party. Moreove ement in his expert repo	ot prove indirect i er, Secure Compu	e. object to any question re infringement because it ha iting's expert did not provi laims 1-5, 7, and 15 of the	s no evidence of direct ide any opinion of

⁷ <u>Id</u>.

 $^{^8}$ Secure Computing's inducement claims are supported by Dr. Wallach's opening report at ¶¶ 106, 98, 102, and 103, and corresponding claim charts, and in trial testimony at Trial Day 5, pp. 1019-1020, 1013-1016, and 1028-1029.

	If you answered "NO," please proceed to Question No. 20.				
	If you answered "Y prior art:	ES," please mark the	claims you found to	be anticipated by	
	Claim 1:	Claim 2:	Claim 3:	Claim 4:	
	Claim 5:	Claim 7:	Claim 8:	Claim 9:	
	Claim 10:	Claim 11:	Claim 12:	Claim 14:	
	Claim 15:				
21.	Do you find that Finjan has proven by clear and convincing evidence that 0 37 of U.S. Patent No. 6,357,010 is invalid because it is anticipated by prior Answer this question regarding validity of the '010 patent with "Yes" or "Yes" is a finding for Finjan. A "No" is a finding for Secure Computing.				
	YES	_ NO)		
	If you answ	If you answered "NO", please proceed to Question No. 21.			

Obviousness

		·	NOO," please proceed t				
		·	O," please proceed t				
		If you answered "Y		If you answered "NO," please proceed to Question No. 22.			
		of the prior art:	If you answered "YES," please mark the claims you found to be obvious in light of the prior art:				
		Claim 1:	Claim 2:	Claim 3:	Claim 4:		
		Claim 5:	Claim 7:	Claim 8:	Claim 9:		
		Claim 10:	Claim 11:	Claim 12:	Claim 14:		
		Claim 15:					
	23.			lear and convincing evilid because it is obviou			
		YES	N	0			
	Dama	ges for Secure Com	puting's Patent Inf	ringement Claims Ag	gainst Finjan		
	24.	7,185,361 are valid what is the reasonal	and infringed by Fir ole royalty rate to wl	ne asserted claims of Unian's Vital Security Notes in Secure Computing amount of sales that the	IG Appliances, then g has proven by a		
·			% \$				
	25.	If you have found that one or more of the asserted claims of U.S. Patent No 6,357,010 are valid and infringed by Finjan's Vital Security for Documents what is the reasonable royalty rate to which Secure Computing has proven preponderance of the evidence and the amount of sales that the royalty rate be applied to?			or Documents, then g has proven by a		
			% \$				
		PERSON					

Case 1.06-67-00369-GMS	Document 219	Filed 03/10/2006	Page 15 01 15
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